

Message Text

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ACTION L-03

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GENEVA FOR FRANK WILLIS STATE L/EB

E.O. 11652: N/A
TAGS: EAIR, GW
SUBJECT: CIVAIR: PAN AM IGS CLAIM

REF: A. STATE 22864, B. 77 BONN 12014,
C. STATE 25105, D. BONN 2170

1. FOREIGN OFFICE OFFICIALS IN CHARGE OF AVIATION
AFFAIRS VON MENTZINGEN AND HELD INFORMED CIVIL AIR
ATTACHE FEBRUARY 24 THAT PAN AM HAD BEEN GRANTED
FURTHER EXTENSION TO ITS EXEMPTION TO STATUTE OF
LIMITATION PROVISIONS AFFECTING ITS CLAIM AGAINST THE
FEDERAL GOVERNMENT FOR LOSSES INCURRED ON ITS INNER
GERMAN SERVICES (IGS) BECAUSE OF THE 1973 AIR TRAFFIC
CONTROLLERS SLOWDOWN. AT PAN AM'S REQUEST THE
EXTENSION THIS TIME WAS NOT FOR A FIXED TERM BUT UNTIL
SUCH TIME AS THE "COMPLETELY DRAFTED DECISION" OF
THE BUNDESGERICHTSHOF (FEDERAL SUPREME COURT) ON THE
APPEAL BROUGHT TO IT BY CAPITOL AIRLINES ON CAPITOL'S
CLAIM ARISING FROM THE SAME SLOWDOWN (REF B) HAS
BEEN MADE AVAILABLE TO PAN AM AFTER WHICH PAN AM WILL
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HAVE TWELVE DAYS IN WHICH TO INITIATE AN ACTION.
HELD AND VON MENTZINGEN POINTED OUT THAT THIS WOULD
PROBABLY BE A PERIOD OF SEVERAL MONTHS. THEY ALSO
NOTED THAT THE BUNDESGERICHTSHOF MIGHT REFUSE TO REVIEW
THE LOWER COURT DECISION IN WHICH CASE THE COMPLETE
DECISION WOULD MERELY BE THE ANNOUNCEMENT OF THIS
REFUSAL.

3. IN THE VIEW OF THE FOREIGN OFFICE, HELD SAID, THE ABOVE ARRANGEMENT IS A "SATISFACTORY SOLUTION" OF THE PROBLEM FOR THE TIME BEING, I.E., UNTIL THE FEDERAL SUPREME COURT DECISION IS MADE. HE AGREED THAT THERE - NEW ASPECTS TO THE CASE, I.E., THE POLITICAL FACTORS DESCRIBED IN REF A & D AND SAID THAT THESE WOULD CONTINUE TO BE LOOKED INTO. HOWEVER, SINCE THE COURT DECISION COULD ALTER THE EARLIER BASIS FOR THE REJECTION OF AN ADMINISTRATIVE SETTLEMENT OF THE CLAIM (LACK OF FULL RECIPROCITY UNDER THE TERMS OF GERMAN LAW), THE FEDERAL GOVERNMENT WILL NOT MAKE A DECISION ON THE CLAIM UNTIL THE CAPITOL APPEAL HAS BEEN AJUDICATED.

4. COMMENT: WE HAD NOT PREVIOUSLY KNOWN OF THE TERMS OF PAN AM'S REQUEST FOR AN EXTENSION, ALTHOUGH WE DID REMIND PAN AM AFTER RECEIVING REF A THAT AN EXTENSION SHOULD BE REQUESTED. WE ASSUME THAT PAN AM WILL DECIDE WHETHER OR NOT TO PURSUE ITS CLAIM IN THE COURTS DEPENDING ON THE FATE OF CAPITOL'S APPEAL.

ACTION REQUESTED: PLEASE ADVISE WHAT IF ANY REPLY SHOULD BE MADE TO THE FOREIGN OFFICE VIEW THAT THE CLAIM SHOULD IN EFFECT LIE DORMANT UNTIL THE BUNDESGERICHTSHOF DECISION.

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